

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

DUNCAN J. MCNEILL, III,

Plaintiff,

v.

//

CIVIL ACTION NO. 1:05CV142
(Judge Keeley)

UNITED STATES OF AMERICA;
CLERK - U.S. DISTRICT COURT NDWV;
CLERK - U.S. BANKRUPTCY COURT - NDWV;
UNITED STATES ATTORNEY - NDWV;
OFFICE OF THE TRUSTEE - NDWV;
U.S. MARSHAL SERVICE - NDWV;
FBI - NDWV; IRS - NDWV; and
SECRET SERVICE - NDWV,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On October 5, 2005, pro se plaintiff Duncan J. McNeill, III, filed a civil rights complaint pursuant to 28 U.S.C. § 1361, 28 U.S.C. § 2201, Article IV of the United States constitution, 28 U.S.C. § 1738, 28 U.S.C. § 1655; Rules 71, 69(a), 70 and 53(b) of the Federal Rules of Civil [sic], and the Privacy Act, 5 U.S.C. 552(a). The Court referred this matter to United States Magistrate Judge James E. Seibert for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

On January 20, 2006, Magistrate Judge Seibert issued a Report and Recommendation recommending that case be dismissed under 28 U.S.C. §§ 1915A and 1915(e) for failure to state a claim. The Report and Recommendation also specifically warned that failure to

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object to the recommendation would result in a waiver of his appellate rights on this issue. On January 31, 2006, the United States Postal Service returned the report and recommendation marked undeliverable. On that same day, January 31, 2006, the Clerk of Court mailed the report and recommendation to the plaintiff at the address listed on the United States Post Office label. As of February 23, 2006, the report and recommendation has not been returned. Moreover, McNeill has not filed any objections.¹

Consequently, the Court **ADOPTS** the Report and Recommendation in its entirety and **ORDERS** McNeill's case **DISMISSED WITHOUT PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Clerk is directed to mail a copy of this Order to the plaintiff, certified mail return receipt requested.

Dated: March 2, 2006.


IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ McNeill's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).